



State of California
Franchise Tax Board

Nonresident Withholding Independent Contractor Rent & Royalty Guidelines

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Purpose

This publication provides guidance for those making payments to nonresident independent contractors, payments of rents or royalties to nonresidents and distributions to nonresident beneficiaries. The entities making these payments are referred to as withholding agents.

This publication does **not** cover withholding on:

- distributions made to nonresident partners;
- payments to nonresident sellers of California real estate;
- payments made to nonresident entertainers; or
- wages paid to employees.

For more information on partnership, real estate and entertainment withholding, please refer to Franchise Tax Board Publication 1017, Nonresident Withholding Partnership Guidelines; FTB Pub. 1016, Nonresident Withholding Real Estate Guidelines; and FTB Pub. 1024, Nonresident Withholding Entertainment Guidelines.

For information on employee wage withholding, contact the Employment Development Department.

This publication contains all the forms applicable to withholding on nonresident independent contractors and rent and royalties paid to nonresident entities. The forms in this publication are provided for you to use or photocopy.

Law

California Revenue and Taxation Code Section 18662 and the related regulations (18662-1 through 18662-14) require the withholding of California income or franchise taxes from payments made to nonresident independent contractors performing services in California. Withholding is also required on other payments of California source income to nonresident payees and on distributions of California source income to nonresident beneficiaries.

Revenue and Taxation Code Section 18668 makes the withholding agent liable for any tax required to be withheld.

Revenue and Taxation Code Section 17951 contains the provision requiring nonresidents to be taxed on all income from California sources. Payments made for personal services performed in California are California source income. Where the nonresident lives, the location where the contract for services is entered into, or the place of payment does not determine the source of income from personal services. The source of income from personal services is the location where the services are performed. Nonresidents must include in California gross income the gross payments for all services performed in California.

Overview

Withholding is required when making payments to nonresident independent contractors performing services in California and when making payments to nonresidents for California rents and royalties. Withholding is required when making distributions of California source income to nonresident beneficiaries.

We send a letter to new and existing California corporations to explain the general withholding requirements. The letter is titled *Withholding of Tax at Source Requirements - Independent Contractors* (FTB 4086) and its purpose is to help business entities understand the withholding requirements, set up procedures, resolve problems, and answer questions.

This letter **should not** be confused with *Orders to Withhold* or other collection letters. Orders to Withhold give specific instruc-

tions to withhold on a particular individual or business entity for unpaid taxes.

We also send a letter to California estates explaining general withholding requirements. We send this letter to estates that request an Estate Income Tax Certificate from the Franchise Tax Board and indicate on their request that distributions are made to nonresident beneficiaries. This letter is titled *Notice to Withhold* (FTB 2914).

There are samples of the *Withholding of Tax at Source Requirements - Independent Contractors* and the *Notice to Withhold* at the end of this booklet.

Frequently Asked Questions

General Withholding Requirements

1. When are withholding agents required to withhold?

Withholding agents are required to withhold from all payments or distributions of California source income made to a nonresident when the payments or distributions are greater than \$1,500 for the calendar year **unless** the withholding agent receives authorization for a waiver or a reduced withholding rate from the Franchise Tax Board.

See responses to questions 45-50 regarding Waivers or Reduced Withholding Rates for more information.

2. What is the withholding rate?

The withholding rate is seven percent of:

- Gross payments made to nonresident:
 - independent contractors for services performed in California.
 - recipients of California rents or royalties.
- Distributions of California source income made to nonresident beneficiaries of estates or trusts.

3. Are there exceptions to withholding?

Yes. Withholding is not required if one of the following exceptions is met:

- The payee meets one of the exemptions on Form 590, Withholding Exemption Certificate. See responses to questions 31-44 regarding Withholding Exemptions for more information about Form 590.
- The total payments of California source income to the nonresident are equal to or less than \$1,500 for the calendar year. See responses to questions 12 and 13 regarding Payments of \$1,500 or Less for additional information.
- The payment is for goods.
- The services provided by the nonresident are not performed in California.
- The nonresident or the withholding agent receives written authorization from the Franchise Tax Board waiving the withholding.
- The payments are income from intangible personal property, such as interest and dividends, unless the property has acquired a business situs in this state. See Question 9 for additional information.
- The payments are compensation from a motor carrier providing transportation in two or more states, subject to section 11504(b) of Title 49 of the United States Code.
- The payments are wages paid to employees. For information on employee wage withholding, contact the Employment Development Department.

- i. The payee is a bank or banking association.
- j. The payments are made to a nonresident corporate director for director's services.

4. Does the exemption for motor carriers apply to all transportation providers?

No. Payments from interstate motor carriers to operators who are nonresident independent contractors are exempt from withholding because the payments are exempt from taxation. However, similar exemptions for payments made to air, water, and rail carriers apply only to nonresident employees and not to independent contractors.

5. Are withholding agents required to notify nonresident payees of the withholding requirements?

No. However, to avoid confusion, we recommend that withholding agents explain California's withholding requirements before actually withholding. The following are suggestions for providing this explanation:

Suggestion #1:

Provide the payees with copies of Form 587, Nonresident Income Allocation Worksheet, and Form 590, Withholding Exemption Certificate. These forms, and their accompanying instructions, explain California's nonresident withholding requirements.

Suggestion #2:

Provide each payee with a letter explaining the withholding requirements. The following is a sample:

Withholding on Payments to California Nonresidents

Payments made to California nonresidents, including corporations, limited liability companies, and partnerships that do not have a permanent place of business in this state are subject to seven percent state income tax withholding (California Revenue and Taxation Code Section 18662).

Types of income subject to withholding include, but are not limited to, payments for services performed in California and payments of leases, rents and royalties for property (real or personal) located in California. No withholding is required on payments for goods.

The Franchise Tax Board may reduce the withholding if the seven percent will result in substantial over-withholding or waive the withholding if the payee has a current history of filing California returns and/or making estimated payments when due. For more information, or to request a waiver or reduced withholding rate, contact:

NONRESIDENT WITHHOLDING WAIVER REQUESTS
NONRESIDENT WITHHOLDING SECTION MS F-265
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

Suggestion #3:

The withholding agent may forward a copy of the Franchise Tax Board *Withholding of Tax at Source Requirements - Independent Contractors* letter, (FTB 4086), to the payee. There is a sample of this letter at the end of this booklet.

Entities Subject to Withholding

6. Which nonresident entities are subject to withholding when receiving payments or distributions of California source income?

Nonresident entities subject to withholding include:

- individuals who are nonresidents of California,
- corporations that do not have a permanent place of business in California and are not qualified through the Office of the Secretary of State to do business in California,
- partnerships and limited liability companies that do not have a permanent place of business in California and are not registered through the Office of the Secretary of State, and
- nonresident estates and trusts.

7. Are payments to non-qualified S corporations subject to withholding?

Yes. Payments to S corporations that do not have a permanent place of business in California and are not qualified through the Office of the Secretary of State to do business in California are subject to the withholding.

Income Subject to Withholding

8. What types of payments are subject to withholding?

The following California source income is subject to withholding:

- payments made for personal services performed in California, *Where the nonresident lives, the location where the contract for services is entered into, or the place of payment does not determine the source of income from personal services. The source of income from personal services is the location where the services are performed.*
- payments received for a covenant not to compete in California,
- payments releasing a contractual obligation to perform services in California,
- income from options received as a result of performing personal services in California,
- bonuses paid for services performed in California, and
- rents and royalties from assets located in California.

9. What types of payments are not subject to withholding?

Payments made to nonresident directors of a corporation for attending board meetings in California are not subject to withholding.

Income from intangible personal property such as stocks, bonds, notes, etc., is not income from California sources **unless** the property has acquired a business situs in California. A California business situs is acquired when the property is employed as capital in California. A California business situs is also acquired when the possession and control of the property has been localized in connection with a business, trade, or profession in California so that its substantial use and value attach to and become an asset of that business. The entire income, including the gain from the sale of such an asset, is income from California sources.

Examples include an intangible asset pledged as security for a loan connected to a California business or a bank account maintained to pay expenses related to business activities in California.

Determining business situs is a difficult area where bright-line tests have not been developed. If the withholding agent is certain that an intangible asset has acquired

a California business situs, withholding is required. If the status is not clear, the withholding agent is not required to withhold.

10. Are payments that are exempt from federal tax due to tax treaties (federal Form W-8, Certificate of Foreign Status), also exempt from California tax and withholding?

No. California does not conform to federal law relating to income protected by U.S. tax treaties. California income is taxable and subject to withholding. Nonresident aliens are required to report income from California sources on Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.

The payee may request a waiver or reduced withholding rate if the statutory amount will result in over-withholding. See responses to questions 45-50 for additional information regarding waivers and reduced withholding rates.

11. Is withholding required on payments made to reimburse expenses?

If the reimbursement is separately accounted for and is not subject to federal Form 1099 reporting, withholding is not required on payments to reimburse nonresidents for expenses relating to services performed in California (corporate payees, for purposes of this exception, should be treated as individual persons).

When the reimbursed expenses do not meet these requirements, withholding agents should withhold on the total payment.

Payments of \$1,500 or Less

12. If a withholding agent expects payments to a nonresident to exceed \$1,500 during the year, when should withholding start: At the time of the first payment? Or, when the combined total payments exceed \$1,500?

The withholding agent should begin withholding on the first payment to the nonresident. The total payments are subject to withholding, not just the amount exceeding \$1,500.

13. Will the Franchise Tax Board require "catch-up" withholding if the withholding agent reasonably believed the total payments to a nonresident for the year would not exceed \$1,500 but later determines the total payments will exceed \$1,500?

No. Withholding must begin as soon as the withholding agent determines that total payments of California source income for the calendar year will exceed \$1,500. If the withholding agent reasonably believed the total payments would not exceed \$1,500 for the calendar year, we will not require the withholding agent to make "catch-up" payments.

Payments to Independent Contractors

14. What is the difference between an independent contractor and an employee?

An independent contractor is engaged in a bona fide business that is separate and apart from the business paying him. A bona fide business is subject to profit and loss. An independent contractor is usually contracted to perform specific tasks and he has the right to control the way the work is to be accomplished. An independent contractor has a substantial investment in the business and contracts to perform services with more than one business.

An employee is subject to the wage withholding provisions administered by the Employment Development

Department. If the nonresident vendor is an independent contractor, withholding is sent to the Franchise Tax Board. A particular withholding agent could have some payees who are employees and others who are independent contractors. Please contact the Employment Development Department to learn more about the definition of an employee.

15. What are the withholding agent's responsibilities when making payments to subcontractors?

The withholding agent is required to withhold when making payments directly to nonresident subcontractors for services performed in California.

When the withholding agent makes payments to more than one contractor, the withholding agent should provide each contractor with Form 587, Nonresident Income Allocation Worksheet, and Form 590, Withholding Exemption Certificate, to decide if withholding is required. See responses to questions 25-44 for additional information about Forms 587 and 590.

If the withholding agent knows of only one contractor, use the information provided by the contractor-of-record. If the contractor is a resident, no withholding is required. However, if the contractor-of-record is a nonresident, withholding is required on the total payment.

Withholding is not required on payments to general contractors who are California residents. However, general contractors must withhold on payments made to nonresident subcontractors for services performed in California.

16. Are withholding agents required to withhold when vendors perform services in connection with the sale of goods?

Yes. Withholding is required on the portion of the sale that relates to services provided in California. Form 587, Nonresident Income Allocation Worksheet, may be used to distinguish the portion of payments made for goods from the portion for services.

See responses to questions 25-30 regarding Income Allocation for additional information about Form 587.

17. Is withholding required on payments that must be issued immediately?

Yes. Withholding is required on any payments that are compensation for services performed in California by a nonresident.

Rent or Royalty Payments

18. When is withholding required on rent or lease payments made to nonresidents?

Withholding on rent or lease payments to nonresidents is required when all of the following criteria are met:

- The payments are made in the course of the lessee's business. (Tenants of residential property are not required to withhold on payments made to nonresident owners.)
- The rented or leased property is located in California.
- The total payments of California source income to the lessor by the lessee exceed \$1,500 for the calendar year.

The withholding only applies when the rent-payers are renting or leasing property in the course of their business from a non-California owner.

Note: Although withholding is not required on residential property, income derived from real property as well as tangible personal property located in California is

California source income and is subject to California tax. This includes rents, lease payments and the gain on the sale of such property. For more information on a nonresident's requirement to file a California tax return, see responses to questions 70-73.

19. What types of rental or leased property are subject to withholding?

- a. Real property, such as land and buildings.
- b. Tangible personal property, such as machinery equipment, vehicles, aircraft, etc.

20. When is withholding required on royalty payments made to nonresidents?

California requires withholding agents to withhold on royalties paid for the right to use natural resources located in California, including, but not limited to, oil, gas, other minerals, geothermal, and timber.

Withholding is also required on royalty or residual payments made to nonresidents for services originally performed in California.

Payments to Corporate Directors

21. Is withholding required on payments to nonresident directors of a corporation when board meetings are held in California?

No. Revenue and Taxation Code Section 18662 was amended to eliminate withholding requirements on wages, salaries, fees or other compensation paid by a corporation for services performed in California for that corporation to a nonresident corporate director for director services, including attendance at a board of directors' meeting.

22. Are information returns required when a person makes payments to a nonresident corporate director?

Yes. An entity paying wages, salaries, fees or other compensation to a nonresident director must file an information return with the Franchise Tax Board and provide the payee with a payee statement. To meet this requirement the paying entity must file federal Form 1099-MISC with the Internal Revenue Service and provide a copy of the form to the payee.

Seminars

23. Is withholding required on payments made to nonresident seminar providers for seminars held in California?

Yes. Withholding is required on payments that are compensation for services performed in California by a nonresident.

Payments to Expert Witnesses

24. Is withholding required on payments to expert witnesses who are nonresidents?

Yes. Withholding is required on payments that are compensation for services performed in California by a nonresident.

Income Allocation

25. In situations where a nonresident contractor is performing services within California as well as outside of California, how does the withholding agent determine what portion of the services are provided within California?

Reasonable methods are acceptable. The following are examples of methods that the Franchise Tax Board accepts:

Method 1:

Withholding agent asks payee to complete Form 587, Nonresident Income Allocation Worksheet. This form is used to determine the amount of California source income subject to withholding. The payee completes and returns Form 587 to the withholding agent. The withholding agent uses the information provided to determine if withholding is required, and, if required, what portion of the payment is subject to withholding.

Example

A withholding agent sends Form 587 to an out-of-state independent contractor (vendor) before making a payment for services. The total contract amount is \$100,000. The nonresident vendor returns Form 587, certifying that \$60,000 is for services performed in California and \$40,000 is for work performed in another state. The amount of withholding would be:

\$60,000	California source income
X 7%	Withholding rate
\$ 4,200	

Note: If the amount subject to withholding (\$60,000 in the example above) is equal to or less than \$1,500, no withholding is required.

Method 2:

The withholding agent relies on the nature of the work to indicate where the services are performed. For example, a construction company building a shopping center is most likely performing services where the shopping center is located.

We do not expect exactness in determining what portion, or ratio, of the services are performed in California. A good faith effort by the withholding agent to comply with the withholding rules will satisfy this requirement.

Withholding agents may use other reasonable methods approved by the Franchise Tax Board. Withholding agents and vendors who need assistance in this area can contact the Franchise Tax Board's Nonresident Withholding Section at (916) 845-4900.

26. How much reliance can be placed on allocations provided by payees on Form 587, Nonresident Income Allocation Worksheet?

Withholding agents may rely on allocations provided by payees on a properly completed and signed Form 587. No additional verification efforts are needed. Withholding agents suspecting that Form 587 has been fraudulently completed should provide a copy of the form to the Franchise Tax Board and include an explanation of why they believe the form is fraudulent. The withholding agent may rely on the information provided by the vendor until the Franchise Tax Board issues notification to revise the allocation or withdraw the exemption.

All information provided to the Franchise Tax Board is strictly confidential.

27. How long should withholding agents keep a Form 587 completed by a payee?

Withholding agents should retain the form for at least six years.

28. When using an allocation based on time, what is the appropriate denominator for the ratio?

Compensation for personal services performed by nonresident independent contractors will normally be allocated to California based on working days in California to total working days in and out of California. The denominator is the total number of days actually worked on the particular job.

The number of days covered by the vendor's contract can only be used when the vendor is:

- hired for the exclusive use of the withholding agent for the entire contract period,
- required to be available to work each day at the discretion of the withholding agent during the contract period, and
- being paid whether or not providing services.

Days spent acquiring knowledge, skills, or experience necessary as a condition of employment are not considered work days (*Marc Wilson v. Franchise Tax Board* (1993) 20 Cal. App. 4th 1441).

Professionals and others who bill by the hour allocate compensation based on the number of billable hours worked in California to the total number of billable hours related to the particular service.

29. When payments are made for goods and services, how may withholding agents determine the portion of the payment related to services?

We will accept any reasonable method.

One method is to use the same allocation of goods and services that is used for sales and use tax purposes in the sales contract. The portion of the payment **not** subject to sales or use tax would be considered payment for services and subject to withholding. If a payment is not subject to California sales or use tax, but is subject to another state's sales or use tax, withholding agents may use the allocation for the other state to determine the portion relating to services and subject to withholding.

Generally, under sales and use tax laws, charges for labor or services for installation are not subject to sales or use tax. Payments for installation would be subject to withholding. Charges for designing, consulting, performing feasibility studies, evaluating bids and providing training services are also considered service activities if they are separately stated and not part of the sale of tangible personal property.

Payments for repairs would be subject to withholding except for parts that are separately stated on the invoice. As payments for mandatory maintenance contracts or warranties are subject to sales tax, even if the cost of the maintenance contract or warranty is separately stated, the payments would not be subject to withholding. However, payments for optional maintenance contracts or warranties are not subject to sales tax so would be subject to withholding.

One exception is transportation charges. Even if the payment for transportation charges is not subject to sales or use tax, withholding is not required.

When withholding agents have unique situations, they should contact the Franchise Tax Board's Nonresident Withholding Section at (916) 845-4900.

30. May the trustee of a trust allocate distributions between California and non-California source income based on past year's allocations for withholding purposes?

Yes. If the trustee does not know the amount of California source income included in a distribution, the trustee may use the previous year's ratio of California source income to total income to allocate the distribution.

Withholding Exemptions

31. Who is exempt from withholding?

The following entities are exempt from withholding:

- California residents,
- corporations with a permanent place of business in California,
- corporations qualified through the office of the California Secretary of State to do business in California,
- Partnerships and Limited Liability Companies with a permanent place of business in California,
- Tax exempt organizations, under either California or federal law; and
- California estates and trusts

Form 590, Withholding Exemption Certificate, may be completed by payees to certify their status.

Note: Exceptions apply to the actual payee and not to their agent.

32. Who is a California resident?

The term "resident" includes every individual who is in California for other than a temporary or transitory purpose; and, any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose extending over a long or indefinite period will be considered a resident. An individual who comes to perform a particular contract of short duration will be considered a nonresident. Please see Franchise Tax Board Pub 1031, Guidelines for Determining Resident Status, for additional details and examples.

For assistance in determining residency status, call the numbers listed in question 73.

33. How can withholding agents identify resident payees?

The following are examples of reasonable methods accepted by the Franchise Tax Board:

Example #1:

Withholding agents may send their payees a Form 590, Withholding Exemption Certificate. Payees may use this form to certify their residency status.

Note: For Form 590 to be valid, payees must include their taxpayer identification number.

Example #2:

Withholding agents can rely on a California street address as an indication of a payee's residency status. If the payee has a California street address, no withholding is required and Form 590 is not needed to verify residency status unless the withholding agent has reason to believe such address is merely a forwarding address. A valid California street address does not include a California Post Office Box, or an **in care of** address.

If a change of address occurs, the withholding agent must reevaluate the payee's residency status.

If withholding agents need assistance in this area, they can contact the Franchise Tax Board's Nonresident Withholding Section at (916) 845-4900.

34. When does a corporation have a permanent place of business in California?

A corporation has a permanent place of business in this state when it is organized and existing under the laws of this state or it has qualified through the Office of the Secretary of State to transact intrastate business. A corporation which has not qualified to transact intrastate

business (such as a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains an office in this state that is permanently staffed by its employees.

35. How can withholding agents determine if a corporation has a permanent place of business in California or is qualified to do business in this state?

The following are examples of methods the Franchise Tax Board will consider reasonable:

Example #1:

Withholding agents may rely on California Form 590, Withholding Exemption Certificate. A completed Form 590, stating the corporation has a permanent place of business in California, protects the withholding agent from penalties for failure to withhold (unless the withholding agent has actual knowledge that the statement is false).

Note: For Form 590 to be valid, a corporate payee must include its taxpayer identification number.

Example #2:

If a corporation has a permanent place of business in California, it is required to qualify with the Office of the Secretary of State.

Withholding agents can determine if a corporate payee is qualified to do business in this state by contacting:

IRC UNIT
SECRETARY OF STATE
1500 ELEVENTH ST
SACRAMENTO CA 95814-5701
(916) 653-7315

There is a \$4.00 fee for each corporation status check.

Example #3:

Withholding agents may provide a list of corporate payees to the Franchise Tax Board's Nonresident Withholding Section. The Nonresident Withholding Section will review that list and notify the withholding agent of which corporate payees should be withheld upon.

36. What is the difference between corporations incorporated in California and corporations qualified to do business in California for withholding purposes?

Corporations which incorporate in California are automatically qualified to do business in California as long as they file all returns and pay all taxes due. Corporations not incorporated in California, but incorporated under the laws of other states or countries, can still qualify to do business in California. The Office of the Secretary of State is the agency that administers the California Corporations Code as it applies to incorporation and qualification to do business in California. Corporation payees that are either incorporated in California or qualified to do business in California are exempt from the withholding requirements.

37. What significance does the doing business standard have in determining income subject to withholding?

California taxes the income derived from business activity within the state. If a nonresident payee is doing business in California, and is earning California source income, withholding is required unless the payee meets an exemption to withholding.

38. What if the corporate payee is not qualified through the Office of the Secretary of State and does not have a permanent place of business in this state, but is included in the combined report of a corporation that does have a permanent place of business in California? Can Form 590, Withholding Exemption Certificate, be completed to exempt it from withholding?

No. But the vendor may request a waiver from the Franchise Tax Board. The Franchise Tax Board will generally grant a waiver when the vendor is currently included in a combined report with a corporation that has a current filing history with the Franchise Tax Board. See the responses to questions 45-50 regarding Waivers or Reduced Withholding Rates for more information.

39. When is a trust considered a California trust?

For withholding purposes, a trust is considered a California trust if at least one trustee is a California resident. Withholding is not required on payments to California trusts.

40. When is an estate considered a California estate?

An estate is considered a California estate for withholding purposes when the decedent was a California resident on the date of death.

41. What information must be included on a Form 590 for it to be valid?

To be valid, Form 590 must include:

- the name and address of the payee,
- the payee's taxpayer identification number (social security number, federal identification number or California corporation number),
- the withholding agent's name,
- a box checked in front of the applicable exemption, and
- the name and title of the individual completing the form, the individual's signature and the date.

42. What should the withholding agent do if a payee gives the withholding agent an incomplete Form 590, Withholding Exemption Certificate?

An incomplete Form 590 is invalid and the withholding agent should not accept it. If the withholding agent receives an incomplete Form 590 they are required to withhold tax on payments made to the payee until a valid Form 590 is received.

In lieu of a completed Form 590, the withholding agent may accept a letter from the payee explaining why the payee is not subject to withholding. The letter must contain all the information required on the Form 590 in similar language, including the **under penalty of perjury** statement and the payee's taxpayer identification number. The withholding agent may accept facsimiles or photocopies of the withholding forms.

Withholding agents should accept a complete Form 590 when an individual certifies residency, but does not show a California address unless the withholding agent believes the certification is fraudulent.

43. Is the withholding agent liable for knowingly accepting a false Form 590, Withholding Exemption Certificate?

Yes. A withholding agent who knowingly accepts a false Form 590 is subject to the liabilities and penalties relating to failure to withhold.

See responses to questions 63-69 regarding Withholding Agent Liability & Penalties for additional information.

44. Must a payee's Form 590, Withholding Exemption Certificate, be renewed each year?

No. The certification does not need to be renewed annually. The certification remains valid until the payee's status changes. The withholding agent should evaluate the need for securing a new Form 590 when any indication of a change in residency status occurs, such as a change of address, etc.

Waivers or Reduced Withholding Rates

45. Under what conditions does the Franchise Tax Board grant withholding waivers?

We generally grant waivers when the nonresident has a current history of filing California tax returns and/or is currently making estimate tax payments to the Franchise Tax Board.

We may issue temporary waivers to withholding agents who are implementing a withholding program and are encountering administrative problems. Temporary waiver requests are resolved on a case-by-case basis.

46. When does the Franchise Tax Board allow a withholding rate of less than seven percent?

We generally authorize reduced withholding rates when the seven percent withholding rate results in significant over-withholding.

47. What are the procedures for requesting a waiver or reduced withholding rate?

Nonresident payees or withholding agents should complete Form 588, Nonresident Withholding Waiver Request and attach any pertinent facts to support the request. If sufficient information is not provided, the Franchise Tax Board may request additional information or deny the request. Send requests to:

NONRESIDENT WITHHOLDING WAIVER REQUESTS
NONRESIDENT WITHHOLDING SECTION MS F-265
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651

or, FAX the request to the Franchise Tax Board at (916) 845-4831.

If you send your request via FAX, do **not** mail the original to the Franchise Tax Board. Doing so may slow the processing of your request.

48. How soon will the Franchise Tax Board respond to a waiver or reduced withholding rate request?

We generally respond within one week. We will contact the requester if additional information is required.

49. Can a request for a waiver or a reduced withholding rate be submitted when multiple payments are made to a nonresident?

Requests for waivers or reduced withholding rates are handled on a case-by-case basis. A waiver or reduced withholding rate may be issued for a particular payment or for multiple payments during a specific time period. Currently, the maximum period is two years.

50. Are withholding agents required to honor waivers or reduced withholding rates that have been authorized by the Franchise Tax Board?

Yes. Withholding agents must honor waivers and reduced withholding rates authorized by the Franchise Tax Board.

Reporting and Sending Withholding Amounts/Due Dates

51. What forms do withholding agents use to report and remit withholding?

Use Form 592-A, Nonresident Withholding Remittance Statement, to remit the tax withheld during the year.

At the end of the calendar year, withholding agents use Form 592, Nonresident Withholding Annual Return, to report the total amount of tax withheld and remitted by Form 592-A during the year. Form 592 also acts as a

transmittal document for Form 592-B, Nonresident Withholding Tax Statement.

Complete Form 592-B to report the payment amount subject to withholding and the amount withheld for the year for each nonresident payee withheld on, and:

- Attach Copy A of each Form 592-B to Form 592 and send it to the Franchise Tax Board by January 31 following the year of the withholding.
- Send Copies B and C of Form 592-B to the nonresident payees withheld upon by January 31 after the close of the year. Nonresidents attach Copy B of Form 592-B to the front of their California tax returns to obtain credit for the amount withheld. They retain Copy C for their records.
- Withholding agents retain Copy D for their records.

Please refer to the Instructions for Forms 592, 592-A and 592-B at the back of this booklet for more information.

52. How can withholding agents and nonresidents obtain these forms?

These forms can be ordered 24 hours a day through Forms-By-FAX by calling (800) 998-FORM or (800) 998-3676. If you do not have a FAX machine or you need a quantity of Form 592-B (which is a multi-part, carbonless form), request these forms by calling the numbers listed in the response to question 73.

53. When are withholding amounts due to the Franchise Tax Board?

Form 592-A with payment of tax withheld is due by the 20th day of the month following the month during which the total amounts withheld from all nonresidents and not previously remitted exceed \$2,500.

Example

A withholding agent is withholding on three nonresidents. The total withholding for January is \$1,000, for February is \$1,200, and for March is \$1,500. Because the cumulative total withholding exceeded \$2,500 during March, the entire \$3,700 in withholding is due by April 20.

At the end of the calendar year, all amounts withheld and not previously remitted are due, with Form 592, by January 31. See the Instructions for Forms 592, 592-A and 592-B for more information.

54. Where should withholding agents send the amounts withheld?

Send payments with Form 592-A, Nonresident Withholding Remittance Statement, to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0001

Do not send amounts withheld to the Nonresident Withholding Section.

55. When are the year-end information returns, (Form 592, Nonresident Withholding Annual Return and Form 592-B, Nonresident Withholding Tax Statement) due to the Franchise Tax Board?

Forms 592 and 592-B are due by January 31 of the following year.

56. What is the Franchise Tax Board's policy on granting extensions to file year-end withholding information?

Requests for extensions are reviewed on a case-by-case basis. Generally, requests for a one month extension from the normal due date of January 31 to February 28 are granted. The extension is only for filing the information returns, not for remitting payments. If a year-end withholding payment is due, it must be paid by January 31 even if an extension to file Form 592 is granted.

57. What methods may the withholding agent use to report Form 592-B, Nonresident Withholding Tax Statement, information to the Franchise Tax Board?

The information may be reported using any of the following:

- Copy A of Form 592-B for each payee withheld upon,
- Copy A of an approved, substitute Form 592-B for each payee withheld upon,
- A copy of Form 1099, (Include **CA** as the state for which the taxes have been withheld in the state withholding box),
- A schedule containing the same information required on Form 592-B for each payee withheld upon, or
- Magnetic media (call (916) 845-6059 for current magnetic media instructions)

All of the above options must include the same withholding agent and payee information as required on Form 592-B. Withholding agents may develop withholding forms, making them suitable for computer preparation. However, substitute withholding forms must be in the same format and include all the same information as the Franchise Tax Board form. Withholding agents who wish to use substitute withholding forms must follow the procedures in FTB Pub 1098, Guidelines for the Development and Use of Substitute, Scannable and Reproduced Tax Forms.

All withholding forms may be photocopied to facilitate use. The withholding agent may use white paper for all copies of multiple-part withholding forms.

58. May withholding agents report withholding on Form 1099 rather than using Form 592-B, Nonresident Withholding Tax Statement?

Yes. Form 1099 may be substituted for Form 592-B.

59. What methods may the withholding agent use to report Form 592-B, Nonresident Withholding Tax Statement, information to the payee?

The following options are acceptable:

- Copy B and C of Form 592-B;
- Copy B and C of an approved, substitute Form 592-B; or
- Two copies of Form 1099 (see question 58).

The Form 592-B information must be mailed to the payee by January 31 of the year following the reportable payments unless the Franchise Tax Board has granted an extension to file.

60. Does the Internal Revenue Service 1099 reporting program relieve a withholding agent from the California withholding requirements?

No. The 1099 reporting is a federal program. It is separate from California's nonresident withholding program.

61. Can the Franchise Tax Board provide transcripts of payments made during the year to withholding agents upon request?

Yes. To request a transcript, please write to:

PAYMENT TRANSCRIPTS
NONRESIDENT WITHHOLDING SECTION MS F-265
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651

Or, call the Nonresident Withholding Section at (916) 845-4900.

62. How can errors in withholding be resolved?

If tax is withheld in error, contact the Franchise Tax Board's Nonresident Withholding Section at (916) 845-4900 for instruction.

Withholding Agent Liability & Penalties

63. What is the withholding agent's liability for failure to withhold or failure to remit withholding?

A withholding agent who fails to withhold, under-withholds, or fails to send withholding to the Franchise Tax Board is liable for the greater of:

- the amount actually withheld; or
- the amount of taxes due from the payee, but not more than the amount required to be withheld.

In addition, the withholding agent is liable for penalties and interest as if the withholding due to the Franchise Tax Board were the withholding agent's tax liability.

64. What additional penalties may the withholding agent be liable for?

Additional penalties include:

- ⇒ underpayment penalty 5% plus .5% per month from the date the payment is due
- ⇒ late filing penalty 5% per month (maximum of 25%) from the date the return was due to the date the return was filed
- ⇒ accuracy related penalty 20%
- ⇒ demand penalty 25%

See California Revenue and Taxation Code Sections 18668, 19131, 19132, 19101, 19164 and 19709 for further information.

65. May penalties resulting from failure to withhold be withdrawn?

Yes. If the withholding agent shows that the failure to withhold was due to reasonable cause, the penalties will be withdrawn.

66. What is reasonable cause?

Generally, reasonable cause exists when the failure to comply occurs despite the exercise of ordinary business care and prudence. The same standards of reasonable cause apply to penalties imposed in the nonresident withholding area as currently apply in other areas, such as penalties imposed for failure to file income tax returns.

67. What is the liability when a withholding agent withheld more than the required amount of withholding but failed to send the withholding to the Franchise Tax Board?

If the withholding agent has not returned the excess withholding to the payees, the agent is liable for the amount actually withheld from the payees, plus interest and applicable penalties.

68. What penalties are imposed if the withholding agent used an estimate or computation method for determining the portion of the payments that represents California source income and that estimate or method later proved inaccurate?

The Franchise Tax Board expects that there will be differences in **estimated** California source income and actual California source income. Penalties are not imposed on withholding agents who make a good faith effort to comply with the law.

69. Is interest charged on late payments of withholding?

Yes. Interest is computed from the due date of the withholding payment to the date paid.

Requirement to File a California Return

70. How can nonresidents determine if they have a requirement to file California income tax returns?

In most cases, nonresidents who receive California source income will have a California filing requirement. For more information on the California filing requirements, or to order tax forms, call the numbers listed in response to question 73.

71. Does withholding relieve a nonresident from the requirement to file a California tax return?

No. The nonresident must file a California tax return if the nonresident meets the filing requirements.

72. Does a waiver from withholding relieve a nonresident from the requirement to file a California tax return?

No. A nonresident must file a California tax return if the nonresident meets the filing requirements, even if a waiver was granted or the nonresident was exempted from withholding.

73. How can withholding agents and nonresidents obtain tax forms and additional information?

Forms and information can be obtained by:

- **Telephone**

For information on requirements to file a California tax return or to obtain forms,

from within the United States call (800) 852-5711

from outside the United States call (916) 845-6500

for hearing impaired callers with TDD

from within the United States call (800) 822-6268

To obtain a withholding form or publication or to speak to a representative, contact the Franchise Tax Board's Nonresident Withholding Section automated telephone service at (916) 845-4900.

- **Mail**

Mailed requests for forms should include the requester's name, address, the form numbers, the titles of the forms, and the quantity requested of each. Send the requests to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Please allow two weeks for delivery.

The mailing address for the Nonresident Withholding Section is:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651

Do not use this address for payments of amounts withheld.

- **Internet**

Access Franchise Tax Board forms and publications as well as general tax information at:

www.ftb.ca.gov

- **FAX**

FTB Forms-by-Fax (800) 998-FORM or (800) 998-3676
(This service is available 24 hours a day.)

The Franchise Tax Board Nonresident Withholding Section can be reached by fax at (916) 845-4831.

19 **Nonresident Income Allocation Worksheet****587****PART I WITHHOLDING AGENT**

Withholding agent's name

Withholding agent's address (number and street)

City

State

ZIP Code

PART II NONRESIDENT VENDOR/PAYEE (Complete Part II through Part V and return this form to the above withholding agent)

Vendor/payee's name

Owner's full name if sole proprietor

Vendor/payee's address (number and street)

City

State

ZIP Code

FEIN	Social security number	Daytime telephone number
()	()	()

Nonresident Vendor/Payee's Entity Type: (Check one)

Individual/Sole Proprietor

Corporation

Partnership

Limited Liability Company (LLC)

Estate or Trust

Tax-Exempt (withholding not required, skip to Part V)

PART III PAYMENT TYPE

Nonresident Vendor/Payee: (Check one)

Performs services totally outside California (no withholding required, skip to Part V)

Provides only goods or materials (no withholding required, skip to Part V)

Provides goods and services in California (see allocation in Part IV)

Provides services within and outside California (see allocation in Part IV)

Other (Describe) _____ Form 587 C2 (REV. 1998)

Note to vendor/payee: If you perform all the services within California, withholding is required on the entire payment for services unless you receive a waiver or reduced withholding authorization from the Franchise Tax Board (FTB). For more information, get FTB Pub. 1023, Nonresident Withholding – Independent Contractor, Rent and Royalty Guidelines.

PART IV INCOME ALLOCATION

Gross payments expected from the above withholding agent during the calendar year for:

(a) Within California

(b) Outside California

(c) Total Payments

1 Goods and Services:

Goods/materials (no withholding required)

Services (withholding required)

2 Rents on commercial or business property.

3 Royalties on natural resources

4 Prizes and other winnings

5 Other payments.

6 Total payments subject to withholding. Add column (a), line 1 through line 5 . . .

Withholding threshold amount: \$1,500.00

Note: If the amount on line 6, column (a) is \$1,500 or less, no withholding is required. If the amount on line 6, column (a) is greater than \$1,500, withholding at 7% is required on the entire amount on line 6, column (a). If the FTB reduced or waived withholding, attach a copy of the authorization from the FTB. See General Information E, Waivers and Reduced Rates.

PART V CERTIFICATION OF VENDOR/PAYEE

Under penalties of perjury, I certify that the information provided on this document is true and correct. If the reported facts change, I will promptly inform the withholding agent.

Authorized representative's signature

Title

Vendor/Payee's signature

Date

Daytime telephone number

()

Instructions for Form 587

Nonresident Income Allocation Worksheet

References in these instructions are to the California Revenue and Taxation Code (R&TC).

General Information

A Purpose

Use Form 587 to collect information to determine if withholding is required on payments to nonresidents. The vendor/payee should complete, sign and return Form 587 to the withholding agent. The withholding agent may then rely on the certification made by the vendor/payee to determine if withholding is required, provided the completed and signed Form 587 is accepted in good faith. The completed Form 587 should be retained by the withholding agent for record keeping purposes and be made available to the Franchise Tax Board (FTB) upon request.

Do not use Form 587 if:

- Payment to a nonresident is for the purchase of goods;
- You sold California real estate. Use Form 590-RE, Withholding Exemption Certificate for Real Estate Sales;
- The vendor/payee is a resident of California or is an irrevocable trust that has at least one California resident trustee. Use Form 590, Withholding Exemption Certificate;
- The vendor/payee is a corporation, partnership or limited liability company (LLC) that has a permanent place of business in California or is qualified to do business in California. Use Form 590; or
- The payment is to an estate and the decedent was a California resident. Use Form 590.

B Law

R&TC Section 18662 and the related regulations require withholding of income or franchise tax on certain payments made to nonresidents of this state. The withholding rate is 7% unless the FTB approves a reduced rate or a waiver. See General Information E.

C When to File This Form

The withholding agent should request that the vendor/payee complete, sign and return Form 587 when a contract is entered into or before payment is made to the vendor/payee.

Form 587 will remain valid for the duration of the contract (or term of payments), provided there is no material change in the facts presented on Side 1. The vendor/payee, by signing Form 587, agrees to promptly notify the withholding agent of any changes in the facts.

D Withholding Requirements

Payments made to nonresident vendors/payees (including individuals, corporations, partnerships, LLCs, estates and trusts) are subject to withholding. However, no withholding is required if total payments of California source income to the vendor/payee during the calendar year are \$1,500 or less.

Qualifying payments include, but are not limited to:

- Payments for services performed in California;
- Rent paid to nonresidents if the payments are made in the course of the withholding agent's business;
- Royalties paid to nonresidents for the right to use natural resources located in California;
- Payments of prizes for contests entered in California;
- Distributions of California source income to nonresident beneficiaries from an estate or trust; and
- Other payments of California source income made to nonresidents.

Qualifying payments do not include payments:

- To a resident of California or to a corporation with a permanent place of business in California;

- To a corporation qualified to do business in California;
- For sale of goods;
- For income from intangible personal property, such as interest and dividends, unless the property has acquired a business situs in California;
- For services performed outside of California;
- To a vendor/payee that is a tax-exempt organization under either California or federal law;
- Representing wages paid to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information, contact your local EDD office; or
- To reimburse a vendor/payee for expenses relating to services performed in California if the reimbursement is separately accounted for and not subject to federal Form 1099 reporting. Corporate vendors/payees, for purposes of this exception, are treated as individual persons.

E Waivers and Reduced Rates

A nonresident vendor/payee may request that income taxes be withheld at a lower rate or waived. A waiver of withholding will generally be granted when a vendor/payee has a current history of filing California returns and/or making estimated payments when due. To apply for a withholding waiver to reduce or eliminate withholding, get Form 588, Nonresident Withholding Waiver Request. If the FTB has granted a waiver or authorized a reduced withholding rate, attach a copy of the FTB's determination letter to this form.

F Requirement to File a California Tax Return

A vendor/payee's exemption certification on this form or Form 590 or a determination letter from the FTB waiving withholding does not eliminate the requirement to file a California tax return and pay the tax due. For return filing requirements, see the instructions for Form 540NR, California Nonresident or Part-Year Resident Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 100, California Corporation Franchise or Income Tax Return; or Form 100S, California S Corporation Franchise or Income Tax Return.

G Where to get Publications, Forms and Additional Information

FTB Pub. 1023, Nonresident Withholding — Independent Contractor, Rent and Royalty Guidelines and nonresident withholding forms are available on the FTB website at <http://www.ftb.ca.gov> on the Internet.

Once you access the FTB website, select Tax Forms from the menu, then select the form number you need. For nonresident withholding and other miscellaneous publications select Miscellaneous California Forms, Instructions and Publications.

Nonresident withholding forms may also be obtained via Forms-by-Fax by calling (800) 998-3676. To order publications or forms or to get additional nonresident withholding information, please contact the Nonresident Withholding Section at the address or automated telephone number below:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX Number: (916) 845-4831

For information, forms and publications not related to nonresident withholding, you may access the FTB

website or call the FTB Taxpayer Services Center telephone service at:

From within the United States . . . (800) 852-5711
From outside the United States . . . (916) 845-6500
For hearing impaired with TDD . . . (800) 822-6268

Specific Instructions

Part I - Withholding Agent

The withholding agent must complete Part I before giving Form 587 to the vendor/payee.

Part II - Nonresident Vendor/Payee

The vendor/payee must complete all information in Part II including the FEIN or social security number and vendor/payee's entity type. No withholding is required if the vendor/payee is a tax-exempt entity. Check the tax-exempt box if the vendor/payee is:

- An entity that is exempt from tax under either California or federal law such as a church, or pension plan;
- An insurance company; or
- A federal, state or local government agency.

Tax-exempt vendors/payees do not need to complete Part III and Part IV, but must complete Part V.

Part III - Payment Type

The nonresident vendor/payee must check the box that identifies the type of payment being received.

No withholding is required when vendors/payees are residents, qualified corporations or have a permanent place of business in California.

Part IV - Income Allocation

Use the income allocation worksheet to identify payments that are subject to withholding. Only payments sourced within California are subject to withholding. Services performed in California are sourced in California. In the case of payments for services performed when part of the services are performed outside California, enter the amount paid for performing services within California in column (a). Enter the amount paid for performing services while outside California in column (b). Enter the total amount paid for services in column (c).

If the vendor/payee's trade, business or profession carried on in California is an integral part of a unitary business carried on within and outside California, the amounts included on line 1 through line 5 should be computed by applying the vendor/payee's California apportionment percentage (determined in accordance with the provisions of the Uniform Division of Income for Tax Purposes Act) to the payment amounts. For more information on apportionment, refer to California Schedule R, Apportionment and Allocation of Income.

Withholding agent. If the amount on line 6 is greater than \$1,500, the withholding agent must withhold on all payments made to the vendor/payee until the entire amount on line 6 has been withheld upon. If circumstances change during the year (such as the total amount of payments), which would change the amount on line 6, the vendor/payee must submit a new Form 587 to the withholding agent reflecting those changes. The withholding agent should evaluate the need for a new Form 587 when a change in facts occurs.

If a reduced rate was authorized by the FTB, compute the withholding required by applying the authorized rate to the amount on line 6.

Part V - Certification of Vendor/Payee

Enter your name, title and daytime telephone number. Sign and date the form and return it to the withholding agent.

19 Nonresident Withholding Waiver Request

588

Part I TYPE OF INCOME PAYMENTS SUBJECT TO WITHHOLDING (please check appropriate box)

☐ Partnership
 ☐ Limited Liability Company (LLC)
 ☐ Payment to Independent Contractor
 ☐ Rents or Royalties
 ☐ Estate or Trust Distribution
 ☐ Other Payments _____ (Specify)

Part II REQUESTER INFORMATION

Name of requester		<input type="checkbox"/> Social security number		<input type="checkbox"/> California corporation number		<input type="checkbox"/> FEIN	
Address		Name of contact person					
City	State	ZIP Code		Daytime telephone number ()			

Part III WITHHOLDING AGENT INFORMATION

Name of Withholding Agent, Partnership, LLC, Estate or Trust (If more than one, attach a separate list.)

Address		City	State	ZIP Code
Name of contact person		Daytime telephone number ()		FAX number ()
Social security number	<input type="checkbox"/> California corporation number		<input type="checkbox"/> FEIN	

If more space is needed, please attach a separate list.

☐ Check the box if you would like a copy of the reply sent to the withholding agent.**Part IV VENDOR/PAYEE INFORMATION**

Names of vendors/payees	Social security number, California corporation number or FEIN	Reason for Waiver Request (Use the applicable letter codes from Part V).
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

If more space is needed, please attach a separate list.

Part V REASON FOR WAIVER REQUEST

- A** Vendor/payee is presently filing California state income tax return(s) and/or making estimated tax payments when required.
- B** Tiered partnership or LLC – Supply names, addresses and FEINs of tiered partnerships or LLCs.
- C** Partner(s) or member(s) included in composite return.
- D** Vendor/partner/member is a corporation that is not qualified to do business and does not have a permanent place of business in California but is filing a tax return based on a combined report with a corporation that does have a permanent place of business in California.
- E** Partner or member is a newly admitted partner or member. A newly admitted partner or member is any entity that becomes a partner or member in the above-listed partnership or LLC after the end of the partnership's or LLC's taxable year.
- F** Other – Attach specific reason and your calculation of the reduced rate to this request. Include substantiation such as detailed estimate of annual California source income and income from all sources. Also include an estimate of annual income and distributions from the above-listed partnership(s), LLC(s), estate(s) or trust(s).

Part VI PERJURY STATEMENT

Under penalties of perjury, I declare that I have examined this request, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of paid preparer is based on all information of which preparer has any knowledge.

REQUESTER'S SIGNATURE _____

TITLE _____

DATE _____

For Privacy Act Notice, see form FTB 1131 (individuals only).**Do not write in this space.**I: _____
F: _____T: _____
OTHER: _____

A: _____

E: _____

R: _____

Instructions for Form 588

Nonresident Withholding Waiver Request

General Instructions

A Purpose

Use Form 588 to request a waiver or a reduced withholding rate on payments of California source income to nonresident vendors/payees.

Do not use Form 588 to request a waiver or reduced withholding rate if withholding is not required for one of the reasons listed in General Instructions D, Exceptions to Withholding, or if you are a:

- **Foreign (non-U.S.) partner or member.** There are no provisions in the California Revenue and Taxation Code (R&TC) to waive or reduce withholding for foreign partners or members; or
- **Nonresident seller of California real estate.** Nonresident sellers of California real estate should use Form 597-A, Nonresident Withholding Waiver Request for Real Estate Sales.

Form 588 does not apply to payments for wages to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information contact your local EDD office.

B Law

The R&TC Section 18662 and the related regulations require withholding of income or franchise tax on certain payments made to nonresidents for income received from California sources. The withholding rate is 7% unless a reduced rate or a waiver is approved by the Franchise Tax Board (FTB).

C Income Subject to Withholding

The items of income subject to withholding include, but are not limited to:

- Compensation for services performed in California by nonresidents (including payment of expenses). For more information, get FTB Pub. 1023, Nonresident Withholding — Independent Contractor, Rent and Royalty Guidelines, or FTB Pub. 1024, Nonresident Withholding — Entertainment Guidelines;
 - Rent paid to nonresidents if the rent is paid in the course of the withholding agent's business;
 - Royalties paid to nonresidents for the right to use natural resources located in California;
 - Distributions of California source income to nonresident beneficiaries from an estate or trust;
 - Prizes and winnings received by nonresidents for contests in California;
 - Distributions of California source income to a domestic (nonforeign) nonresident partner or member. For more information get FTB Pub. 1017, Nonresident Withholding — Partnership Guidelines;
 - Partnership or Limited Liability Company (LLC) income, gain or (loss) allocable under the Internal Revenue Code (IRC) Section 704 to a foreign (non-U.S.) nonresident partner or member.
- Note:** There are no provisions in the California R&TC to waive or reduce withholding for foreign (non-U.S.) partners or members; and
- Other California source income paid to nonresidents.

Compensation for services includes payments for services rendered in California, commissions paid to salespersons or agents for orders received or sales made in California, fees for professional services rendered in California, and payments to entertainers, wrestlers, boxers, etc., for performances in California.

When compensation is paid for services performed both within and outside of California, the portion paid

for services rendered in this state and subject to withholding should be determined by an allocation. Refer to Form 587, Nonresident Income Allocation Worksheet.

D Exceptions to Withholding

Withholding is not required when:

- The payment is for goods;
- The payment is being made to a resident of California, a corporation, a partnership or an LLC that has a permanent place of business in California. Form 590, Withholding Exemption Certificate, can be used by vendors/payees to certify that they are residents of California or have a permanent place of business in California. Withholding agents should keep the signed form containing this certification and provide it to the FTB upon request. Withholding agents are relieved of the withholding requirements if they rely in good faith on a signed certification (Form 590) that the vendor/payee is a resident of California or has a permanent place of business in California. If the resident, corporation, partnership or LLC that has a permanent place of business in California is acting as an agent for the actual vendor/payee, this exception does not apply;
- The withholding agent's total payments of California source income to the vendor/payee are \$1,500 or less for the calendar year;
- The payments are for income from intangible personal property, such as interest and dividends, unless derived in a trade or business or the property has acquired a business situs in California;
- The payments are for services performed outside of California or for rents, royalties and leases on property located outside of California. If nonresidents occasionally enter California to perform duties contracted entirely outside of California (such as reporting, receiving instructions, accounting, etc., incidental to their duties outside of California), such activity will not subject them to withholding requirements;
- The vendor/payee is a tax-exempt organization under either California or federal law (attach a completed Form 590 to certify);
- The vendor/payee receives a written authorization from the FTB waiving the withholding;
- The domestic (nonforeign) nonresident partner or member provides the partnership or LLC with a signed Form 590-P, Nonresident Withholding Exemption Certificate for Previously Reported Income of Partners and Members; or
- The income of nonresident partners or members, including a bank or corporation, is derived from qualified investment securities of an investment partnership.

E When and Where to File

Submit your request for a waiver or reduced rate requests as early as possible before making a payment in order to give the FTB time to process your request.

Send Form 588 to:

NONRESIDENT VENDOR OR
PARTNERSHIP WAIVERS
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
FAX (916) 845-4831 (24 hours a day)

F General Information

Upon granting a request, the FTB will issue a withholding waiver. A withholding agent must have

received a withholding waiver authorizing a reduced rate or a waiver of withholding before reducing or eliminating withholding on payments made to nonresidents. The withholding agent should retain the waiver for a minimum of five years.

Withholding waivers issued by the FTB apply only for the limited purpose of determining the withholding obligation under R&TC Section 18662. They do not apply to the taxability of income. The maximum period of time for which a withholding waiver is effective is two years from the date the waiver is granted. If you previously received a waiver or reduced withholding authorization and wish to have it extended, submit a new request on Form 588 and attach a copy of the original authorization letter. The acceptance of evidence submitted with the application is not binding on the FTB for any purpose other than for issuing of a withholding waiver.

Use Form 592, Nonresident Withholding Annual Return; Form 592-A, Nonresident Withholding Remittance Statement; and Form 592-B, Nonresident Withholding Tax Statement, to report and remit withholding to the FTB.

G Where to get Publications, Forms and Additional Information

FTB Publications 1017, 1023 and 1024 and nonresident withholding forms are available on the FTB website at <http://www.ftb.ca.gov> on the Internet.

Once you access our website, select Tax Forms from the menu, then select the form number you need. For publications select Miscellaneous California Forms, Instructions and Publications.

Nonresident withholding forms may also be obtained via Forms-by-Fax by calling (800) 998-3676. To order publications or forms or to get additional nonresident withholding information, please contact the Nonresident Withholding Section automated telephone service at (916) 845-4900.

Specific Instructions

The withholding agent, partnership, LLC, vendor/payee, estate or trust may complete and sign this form.

Complete the entire form and attach the information supporting your request. Failure to include necessary information and documents may delay issuance of, or result in the denial of, the waiver or reduced withholding rate request.

Part I – Check the box indicating the type of payment for which a waiver or reduced withholding rate is being requested.

Part II – Enter the name, address and to whose attention the withholding certificate is to be mailed. Include a daytime telephone number we can call if additional information is needed.

Part III – Enter the information related to the withholding agent, partnership, LLC, estate or trust making the payments. Use a separate form or attach a list if there is more than one withhold agent.

Part IV – List the names and social security numbers, California corporation numbers or FEINs of the nonresident vendors/payees.

Under Reason for Waiver Request, enter the letter code from Part V that corresponds to your reason for requesting a waiver.

Part V – This is a list of the most common reasons for requesting a waiver. If you chose F, Other, provide all of the required additional information.

Part VI – Sign and date the request.

19

Withholding Exemption Certificate

(For use by individuals, corporations, partnerships, limited liability companies, estates, trusts, insurance companies, qualified pension/profit sharing plans and tax-exempt entities)

590

File this form with your withholding agent.
(Please type or print)

Withholding agent's name

Vendor/Payee's name

Vendor/Payee's ☐ Social security number
☐ California corp. no. ☐ FEIN**Note:** Failure to furnish your identification number will void this certificate.

Vendor/Payee's address (number and street)

Vendor/Payee's daytime telephone number

()

City

State

ZIP Code

I certify that; for the reasons checked below, the entity or individual named on this form is exempt from the California income tax withholding requirement on payment made to the entity or individual. Read the following carefully and check the box that applies to the vendor/payee:

☐ **Individuals — Certification of Residency:**

I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly inform the withholding agent. See Side 2, General Information D, for the definition of a resident.

☐ **Corporations:**

The above-named corporation has a permanent place of business in California at the address shown above or is qualified to do business in California. The corporation will withhold on payments of California source income to nonresidents when required. If this corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California, I will promptly inform the withholding agent. See Side 2, General Information E, for the definition of permanent place of business.

☐ **Partnerships:**

The above-named partnership has a permanent place of business in California at the address shown above and is subject to the laws of California. The partnership will file a California return and will withhold on foreign and domestic nonresident partners when required. If the partnership ceases to do any of the above, I will promptly inform the withholding agent.

☐ **Limited Liability Companies (LLC):**

The above-named LLC has a permanent place of business in California at the address shown above or is registered with the California Secretary of State, and is subject to the laws of California. The LLC will file a California return and will withhold on foreign and domestic nonresident members when required. If the LLC ceases to do any of the above, I will promptly inform the withholding agent.

☐ **Tax-Exempt Entities:**

The above-named entity is exempt from tax under California or federal law. The tax-exempt entity will withhold on payments of California source income to nonresidents when required. If this entity ceases to be exempt from tax, I will promptly inform the withholding agent.

☐ **Insurance Companies or Qualified Pension/Profit Sharing Plans:**

The above-named entity is an insurance company or a federally qualified pension or profit-sharing plan.

☐ **Irrevocable Trusts:**

At least one trustee of the above-named irrevocable trust is a California resident. The trust will file a California fiduciary return and will withhold on foreign and domestic nonresident beneficiaries when required. If the trustee becomes a nonresident at any time, I will promptly inform the withholding agent.

☐ **Estates — Certification of Residency of Deceased Person:**

I am the executor of the above-named person's estate. The decedent was a California resident at the time of death. The estate will file a California fiduciary return and will withhold on foreign and domestic nonresident beneficiaries when required.

CERTIFICATE: Please complete and sign below.

Under penalties of perjury, I hereby certify that the information provided herein is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent.

Vendor/Payee's name and title (type or print) _____

Vendor/Payee's signature _____ Date _____

Instructions for Form 590

Withholding Exemption Certificate

References in these instructions are to the California Revenue and Taxation Code (R&TC).

General Information

A Purpose

Use Form 590 to obtain an exemption from withholding. Complete and present Form 590 to the withholding agent. The withholding agent will then be relieved of the withholding requirements if the agent relies in good faith on a completed and signed Form 590.

Do not use Form 590:

- If you are a seller of California real estate. Sellers of California real estate should use Form 590-RE, Withholding Exemption Certificate for Real Estate Sales; or
- To obtain a waiver from wage withholding administered by the Employment Development Department (EDD) under the Unemployment Insurance Code.

B Law

The R&TC Section 18662 and the related regulations require withholding of income or franchise tax on payments of California source income made to nonresidents of this state.

Withholding is required on:

- Payments to nonresidents for services rendered in California;
- Distributions of California source income made to domestic nonresident partners and members and allocations of California source income made to foreign partners and members;
- Payments to nonresidents for rents if the payments are made in the course of the withholding agent's business;
- Payments to nonresidents for royalties for the right to use natural resources located in California;
- Distributions of California source income to nonresident beneficiaries from an estate or trust; and
- Prizes and winnings received by nonresidents for contests in California.

For more information on withholding and waiver requests, get FTB Pub. 1017, Nonresident Withholding – Partnership Guidelines, and FTB Pub. 1023, Nonresident Withholding – Independent Contractor, Rent and Royalty Guidelines. To get a withholding publication see General Information G.

C Who can Execute This Form

Form 590 can be executed by:

- Residents of California;
- Corporations that are qualified to do business in California or have a permanent place of business in California;
- Partnerships that have a permanent place of business in California. (For withholding purposes, a Limited Liability Partnership is treated like any other partnership.);
- Limited Liability Companies (LLCs) that have a permanent place of business in California or are registered with the California Secretary of State;
- Organizations that are exempt from tax under either California or federal law;
- Insurance companies or federally qualified pension/profit sharing plans; or

- California trusts. For withholding purposes, an irrevocable trust is considered a California trust if at least one trustee is a California resident. Irrevocable trusts are required to withhold on distributions of California source income to their nonresident beneficiaries.

Note: The grantor of a revocable/grantor trust shall be treated as the vendor/payee for withholding purposes. Therefore, if the vendor/payee is a revocable/grantor trust and one or more of the grantors is a nonresident, withholding is required. If all of the grantors of a revocable/grantor trust are residents, no withholding is required. Resident grantors can check the box on Side 1 labeled "Individuals — Certification of Residency."

- California estates. For withholding purposes, an estate is considered a California estate if the decedent was a California resident at the time of death. Distributions of California source income to nonresident estates are subject to withholding.

D Who is a Resident

A California resident is any individual who is in California for other than a temporary or transitory purpose or any individual domiciled in California who is absent for a temporary or transitory purpose.

An individual domiciled in California who is absent from California for an uninterrupted period of at least 546 consecutive days under an employment-related contract is considered outside California for other than a temporary or transitory purpose. This does not apply if an individual has income from stocks, bonds, notes or other intangible personal property in excess of \$200,000 in any taxable year in which the employment-related contract is in effect.

A spouse who is absent from California for an uninterrupted period of at least 546 days to accompany a spouse who is under an employment-related contract is considered outside of California for other than a temporary or transitory purpose.

Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident. For assistance in determining resident status, get FTB Pub. 1031, Guidelines for Determining Resident Status, or call the Franchise Tax Board (FTB), Taxpayer Services Center at the numbers listed in General Information G.

E What is a Permanent Place of Business

A corporation has a permanent place of business in California if it is organized and existing under the laws of California or if it is a foreign corporation qualified to transact intrastate business by the California Secretary of State's Office. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in California only if it maintains a permanent office in California that is permanently staffed by its employees.

F Withholding Agent

Keep Form 590 for your records. Do not send this form to the FTB unless it has been specifically requested by the FTB. If the withholding agent has received Form 594, Notice to Withhold Tax at Source, and the vendor/payee completes Form 590 indicating that he or she is not subject to withholding, send a copy of Form 590 with Form 594 to the FTB. For more information, contact the Nonresident Withholding Section. See General Information G.

The vendor/payee must notify the withholding agent if:

- The individual vendor/payee becomes a nonresident;
- The corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California;
- The partnership ceases to have a permanent place of business in California;
- The LLC ceases to have a permanent place of business in California; or
- The tax-exempt entity loses its tax-exempt status.

The withholding agent must then withhold the tax at source, remit the withholding using Form 592-A, Nonresident Withholding Remittance Statement, and complete Form 592, Nonresident Withholding Annual Return and Form 592-B, Nonresident Withholding Tax Statement. Get Instructions for Forms 592, 592-A and 592-B for due dates and other withholding information.

G Where to get Publications, Forms and Additional Information

FTB Publications 1017, 1023 and 1024 and nonresident withholding forms are available on the FTB website at <http://www.ftb.ca.gov> on the Internet.

Once you access our website, select Tax Forms from the menu, then select the form number you need. For publications, select Miscellaneous California Forms, Instructions and Publications.

You may also get nonresident withholding forms via Forms-by-Fax by calling (800) 998-3676. To order publications or forms or to get additional nonresident withholding information, please contact the Nonresident Withholding Section at the address or automated telephone number below:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

For information, forms and publications not related to nonresident withholding access the FTB website at the address above or call the FTB Taxpayer Services Center at:

From within the United States (800) 852-5711
From outside the United States (916) 845-6500
For hearing impaired with TDD (800) 822-6268

19

Nonresident Withholding Annual Return

592

If you withheld on foreign (non-U.S.) partners, use Section B (on Side 2) of this form. If you withheld on both foreign partners and other payees, file a separate Form 592 for the foreign partners.

Social security number of withholding agent

Section A: Independent contractors; rents and royalties; estates; trusts; domestic nonresident partner/members; and other entities.

☐ California corporation no. ☐ FEIN

Check one box: ☐ Form 592-B attached for each recipient. ☐ Form 592-B information on attached list.
☐ Form 592-B information on enclosed magnetic media. See separate instructions for Forms 592, 592-A and 592-B.

Daytime telephone number

Part I Withholding Agent (Payer)

Name of withholding agent (payer)

Contact person

Address (number and street)

City

State

ZIP Code (or equivalent)

Part II Type of Income Subject to Withholding

☐ Payment to Independent Contractor ☐ Rents or Royalties ☐ Estate Distributions ☐ Trust Distributions
☐ Distributions to Domestic Nonresident Partners/Members (see Section B for withholding on foreign partners/members) ☐ Other _____

- 1 Enter number of Forms 592-B for the type of income checked above 1 _____
 2 Total amount of California source income subject to withholding 2 _____
 3 Total withholding due 3 _____
 4 Prior payments for the above calendar year

(a) Date	(b) Amount	(c) Date	(d) Amount	(e) Date	(f) Amount
Total Column (b)		Total Column (d)		Total Column (f)	

Total payments for the above calendar year. Add the totals from column (b), column (d) and column (f) and enter the sum here . . . 4 _____

Part III Remittance

- 5 **Balance due.** Subtract line 4 from line 3 and enter the balance due. If less than zero, enter

-0-. Attach a check or money order for the full amount payable to "Franchise Tax Board."

Write the payer's social security number, California corporation number, or FEIN

and "Form 592" on the check or money order. 5

Mail Form 592 to the **FRANCHISE TAX BOARD, PO BOX 942867, SACRAMENTO CA 94267-0001.**

Part IV Tax Withheld by Another Entity on Partnership, Limited Liability Company (LLC), Estate or Trust Shown in Part I of This Form

- 6 Enter number of additional Forms 592-B attached, flowing through the credit. The credit must be allocated to all partners, members or beneficiaries whether residents or nonresidents of California, according to their interests in the above partnership, LLC, estate or trust . . . 6 _____
 7 Enter amount withheld by another entity and being allocated to the partners, members or beneficiaries. This credit must be documented by a Form 592-B from the withholding entity. (If this is an estate or trust, do not include any credit being used on Form 541 against tax owed on income retained by the estate or trust.) 7 _____

Part V Perjury Statement

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than withholding agent) is based on all information of which preparer has any knowledge.

Name and title of withholding agent (payer)

Signature of withholding agent (payer)

Date

Name and title of preparer other than withholding agent (payer)

Signature of preparer other than withholding agent (payer)

Address of preparer

()

Daytime telephone number of preparer

SSN/FEIN of preparer

Section B:

Foreign partners and members for taxable year beginning month _____ day _____ year _____, and ending month _____ day _____ year _____.

Check one box: Form 592-B attached for each recipient. Form 592-B information on attached list. Form 592-B information on enclosed magnetic media. See separate instructions for Forms 592, 592-A and**Part I Withholding Agent (Partnership or Limited Liability Company (LLC))**

FEIN of withholding agent

Name of withholding agent (partnership or LLC)

Contact person

Address (number and street)

City

State

ZIP Code (or equivalent)

Daytime telephone number

()

Part II Tax Withheld — Foreign Nonresident Partners or Members

- 1 Are all partners or members foreign (non-U.S.) nonresidents? 1 Yes No
- 2 Enter number of Forms 592-B for foreign partners or members 2 _____
- 3 Total California source taxable income allocable to:
- a Noncorporate foreign nonresident partners or members \$ _____ x _____ % 3a _____
- b Corporate foreign nonresident partners or members \$ _____ x _____ % 3b _____
- c Foreign banks and financial institution partners or members \$ _____ x _____ % 3c _____
- 4 Total foreign partners' or members' withholding due. Add line 3a through line 3c 4 _____
- 5 Prior payments of foreign partners' or members' withholding for the taxable year shown above

(a) Date	(b) Amount	(c) Date	(d) Amount	(e) Date	(f) Amount
Total		Total		Total	
Column (b)		Column (d)		Column (f)	

Total payments for the taxable year. Add the totals from column (b), column (d) and column (f) and enter the result here

- 5 _____
- 6 Amount credited from prior year's withholding 6 _____
- 7 Total payments. Add line 5 and line 6 7 _____
- 8 **Balance due.** Subtract line 7 from line 4 and enter the result here. If this amount is less than zero, enter -0-. Attach a check or money order for the full amount payable to "Franchise Tax Board." Write the partnership's or LLC's FEIN and "Form 592" on the check or money order 8 _____
- Mail Form 592 to the **FRANCHISE TAX BOARD, PO BOX 942867, SACRAMENTO CA 94267-0001.**
- 9 **Overpayment.** If line 7 is more than line 4, subtract line 4 from line 7 and enter the result here 9 _____
- 10 Enter the amount of line 9 you want credited to next year's Form 592 10 _____
- 11 **Refund.** Subtract line 10 from line 9 and enter the result here. 11 _____

Part III Tax Withheld by Another Entity on Above Partnership or LLC

- 12 Enter number of additional Forms 592-B attached, flowing through the credit. The credit must be allocated to all partners or members, whether residents or nonresidents of California, according to their interests in the above partnership or LLC 12 _____
- 13 Enter amount withheld by another entity and being allocated to the partners or members. This credit must be documented by a Form 592-B from the withholding entity. If any of the withholding credit is retained to offset tax at the partnership or LLC level, show only the net flow through amount. 13 _____

Part IV Perjury Statement

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than withholding agent) is based on all information of which preparer has any knowledge.

Name and title of withholding agent, partner of partnership or member of LLC

Signature

Date

Name and title of preparer other than withholding agent, partner or member

Signature

Date

Address of preparer (if different from the address shown above)

()

Daytime telephone number

SSN/FEIN of preparer

19

Nonresident Withholding Remittance Statement

592-A

To be filed by the withholding agent. See separate instructions for Forms 592, 592-A and 592-B.

Withholding agent										Preparer (if other than withholding agent)									
Social security number										Social security number									
<input type="checkbox"/> California corporation number or <input type="checkbox"/> FEIN										<input type="checkbox"/> California corporation number or <input type="checkbox"/> FEIN									
Name										Name of preparer									
Address (number and street)										Address (number and street)									
City			State			ZIP Code				City			State			ZIP Code			
Contact person					Daytime telephone number ()					Contact person					Daytime telephone number ()				
Principal Business Activity Code																			

- 1 Amount of independent contractor withholding 1
- 2 Amount of rent or royalty withholding 2
- 3 Amount of estate withholding 3
- 4 Amount of trust withholding 4
- 5 Amount of foreign partner or member withholding.
For taxable year beginning MONTH / DAY / YEAR , and ending MONTH / DAY / YEAR 5
- 6 Amount of domestic (nonforeign) nonresident partner or member withholding. See instructions 6
- 7 Amount of other withholding (describe) 7
- 8 Amount of interest due 8
- 9 Total amount of this payment. Add line 1 through line 8 9

1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9
1	2	3	4	5	6	7	8	9

**Installment payment worksheet for Revenue & Taxation Code (R&TC) Section 18666
tax for a foreign partner or member**

Complete only if the partnership or limited liability company (LLC) has foreign partners or members.

Caution: Complete column (a) before going to the next column.

	(a) 1st Installment	(b) 2nd Installment	(c) 3rd Installment	(d) 4th Installment
1 Enter the partnership's or LLC's California source taxable income for each period	1	First 3 months	First 6 months	First 9 months
2 Annualization amounts	2	4	2	1.33333
3 Multiply line 1 by line 2	3			
4 Enter the partnership's or LLC's California source taxable income for each period	4	First 3 months	First 5 months	First 8 months
5 Annualization amounts	5	4	2.4	1.5
6 Multiply line 4 by line 5	6			
7 Annualized California source taxable income. In column (a), enter the amount from line 6, column (a). In columns (b), (c) and (d) enter the smaller of the amounts in each column from line 3 or line 6.	7			
8 Foreign partner's or member's annualized California source taxable income. Enter the foreign partner's or member's share of line 7	8			
9 Multiply line 8 by maximum tax rate	9			
10 Applicable percentage.	10	23.75%	47.5%	71.25%
11 Multiply line 9 by the percentage on line 10	11			
12 Add the amounts in all preceding columns of line 13 (except column (a))	12			
13 Installment payments of withholding tax due for foreign partner or member. Subtract line 12 from line 11. If less than zero, enter -0-	13			

Mail Form 592-A to the **FRANCHISE TAX BOARD, PO BOX 942867, SACRAMENTO CA 94267-0001**

YEAR

CALIFORNIA FORM

19 **Nonresident Withholding Tax Statement****592-B**

Attach to Form 592 for each recipient. See the separate instructions for Forms 592, 592-A and 592-B.

Copy A
FOR FRANCHISE TAX BOARD**Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

Part II Withholding agent (Payer/Partnership/Limited Liability Company)

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, and ZIP Code

Daytime telephone number

()

Social security no., California corporation no. or FEIN

Social security no., California corporation no. or FEIN

Part III Preparer (if other than withholding agent)

Preparer's name, address (number and street), city, state, and ZIP Code

Daytime telephone number

()

Social security no., California corporation no. or FEIN

Part IV Type of income subject to withholding. Check the applicable box(es).

Payment to Independent Contractor	Rents or Royalties	Estate Distributions	Trust Distributions	Allocations to Foreign (non-U.S.) Nonresident Partner/Member	Distributions to Domestic (Nonforeign) Nonresident Partner/Member	Other _____ (describe)
-----------------------------------	--------------------	----------------------	---------------------	--	---	------------------------

Part V Tax Withheld

1 Total amount subject to withholding

1

2 Total California tax withheld

2

For Privacy Act Notice, see form FTB 1131 (Individuals only).

592B98103

Form 592-B (REV. 1998) **Side 1**

Form 592-B (REV. 1998)

YEAR

CALIFORNIA FORM

19 **Nonresident Withholding Tax Statement****592-B****Copy B**
FILE WITH YOUR STATE RETURN**Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

Part II Withholding agent (Payer/Partnership/Limited Liability Company)

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, and ZIP Code

Daytime telephone number

()

Social security no., California corporation no. or FEIN

Social security no., California corporation no. or FEIN

Part III Preparer (if other than withholding agent)

Preparer's name, address (number and street), city, state, and ZIP Code

Daytime telephone number

()

Social security no., California corporation no. or FEIN

Part IV Type of income subject to withholding. Check the applicable box(es).

Payment to Independent Contractor	Rents or Royalties	Estate Distributions	Trust Distributions	Allocations to Foreign (non-U.S.) Nonresident Partner/Member	Distributions to Domestic (Nonforeign) Nonresident Partner/Member	Other _____ (describe)
-----------------------------------	--------------------	----------------------	---------------------	--	---	------------------------

Part V Tax Withheld

1 Total amount subject to withholding

1

2 Total California tax withheld

2

For Privacy Act Notice, see form FTB 1131 (Individuals only).

592B98103

FTB Pub. 1023 (REV 06-1999) **Page 21**

Side 1 Form 592-B (REV. 1998)

RECIPIENT:**IMPORTANT — PLEASE READ**

The withholding of tax does not relieve you of the requirement to file a California tax return within three months and fifteen days (for individuals and fiduciaries) or two months and fifteen days (for corporations) after the close of your taxable or income year. If you cannot file the return by the due date, an automatic extension to file is granted (six months for individuals and fiduciaries and seven months for corporations). However, you must pay 100% of your tax liability by the original due date.

To determine if you must file a tax return, refer to the instructions for your tax return: individuals see Form 540, California Resident Income Tax Return, and Form 540NR, California Nonresident or Part-Year Resident Income Tax Return; corporations see Form 100, California Corporation Franchise or Income Tax Return, Form 100S, California S Corporation Franchise or Income Tax Return; and fiduciaries see Form 541, California Fiduciary Income Tax Return. You may order California tax forms by accessing our website at: <http://www.ftb.ca.gov> on the Internet, or by writing to: TAX FORMS REQUEST UNIT, FRANCHISE TAX BOARD, PO BOX 307, RANCHO CORDOVA CA 95741-0307.

Even if you are not required by the law to file a return, you should file a return if California tax has been withheld. For more information, call (800) 852-5711 from within the United States, or (916) 845-6500 from outside the United States.

You may be assessed a penalty if you file your return late, if the amount withheld is not enough to satisfy your tax liability or if you fail to file a return and your California income exceeds the amounts prescribed by law for filing a return.

When filing your California tax return, attach Copy B of this form to the face of your return as you would a federal Form W-2. If you are an individual or a fiduciary, enter the amount from Part V, line 2 of this form on the "California income tax withheld" line of your return. If you are a corporation, enter the amount on the "Estimated tax payments" line of your return.

Keep Copy C for your records.

WITHHOLDING AGENT:

You are required to file Copy A of this form together with Form 592, Nonresident Withholding Annual Return, with the Franchise Tax Board. See the instructions for Forms 592, 592-A and 592-B for time and place for filing returns of tax withheld at source.

Direct correspondence to: NONRESIDENT WITHHOLDING SECTION, FRANCHISE TAX BOARD, PO BOX 651, SACRAMENTO CA 95812-0651, or telephone: (916) 845-4900.

File **Copy A** with Form 592, Nonresident Withholding Annual Return.

Copies B and C are for the recipient.

Copy D is for the withholding agent's records.

YEAR

CALIFORNIA FORM

19

Nonresident Withholding Tax Statement

592-B

Copy C
FOR RECIPIENT'S RECORD**Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

Part II Withholding agent (Payer/Partnership/Limited Liability Company)

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, and ZIP Code

Daytime telephone number
()

Social security no., California corporation no. or FEIN

Social security no., California corporation no. or FEIN

Part III Preparer (if other than withholding agent)

Preparer's name, address (number and street), city, state, and ZIP Code

Daytime telephone number
()

Social security no., California corporation no. or FEIN

Part IV Type of income subject to withholding. Check the applicable box(es).

Payment to Independent Contractor	Rents or Royalties	Estate Distributions	Trust Distributions	Allocations to Foreign (non-U.S.) Nonresident Partner/Member	Distributions to Domestic (Nonforeign) Nonresident Partner/Member	Other _____ (describe)
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Part V Tax Withheld

1 Total amount subject to withholding

1

2 Total California tax withheld

2

For Privacy Act Notice, see form FTB 1131 (Individuals only).

592B98103

Form 592-B (REV. 1998) Side 1

Form 592-B (REV. 1998)

YEAR

CALIFORNIA FORM

19

Nonresident Withholding Tax Statement

592-B

Copy D
FOR WITHHOLDING AGENT**Part I Recipient**

Recipient's name, address (number and street), city, province or state, postal code, and country

Part II Withholding agent (Payer/Partnership/Limited Liability Company)

Withholding agent's (payer's/partnership's/limited liability company's) name, address (number and street), city, state, and ZIP Code

Daytime telephone number
()

Social security no., California corporation no. or FEIN

Social security no., California corporation no. or FEIN

Part III Preparer (if other than withholding agent)

Preparer's name, address (number and street), city, state, and ZIP Code

Daytime telephone number
()

Social security no., California corporation no. or FEIN

Part IV Type of income subject to withholding. Check the applicable box(es).

Payment to Independent Contractor	Rents or Royalties	Estate Distributions	Trust Distributions	Allocations to Foreign (non-U.S.) Nonresident Partner/Member	Distributions to Domestic (Nonforeign) Nonresident Partner/Member	Other _____ (describe)
-----------------------------------	--------------------	----------------------	---------------------	--	---	------------------------

Part V Tax Withheld

1 Total amount subject to withholding

1

2 Total California tax withheld

2

For Privacy Act Notice, see form FTB 1131 (Individuals only).

592B98103

FTB Pub. 1023 (REV 06-1999) Page 23

Side 1 Form 592-B (REV. 1998)

RECIPIENT:**IMPORTANT — PLEASE READ**

The withholding of tax does not relieve you of the requirement to file a California tax return within three months and fifteen days (for individuals and fiduciaries) or two months and fifteen days (for corporations) after the close of your taxable or income year. If you cannot file the return by the due date, an automatic extension to file is granted (six months for individuals and fiduciaries and seven months for corporations). However, you must pay 100% of your tax liability by the original due date.

To determine if you must file a tax return, refer to the instructions for your tax return: individuals see Form 540, California Resident Income Tax Return, and Form 540NR, California Nonresident or Part-Year Resident Income Tax Return; corporations see Form 100, California Corporation Franchise or Income Tax Return, Form 100S, California S Corporation Franchise or Income Tax Return; and fiduciaries see Form 541, California Fiduciary Income Tax Return. You may order California tax forms by accessing our website at: <http://www.ftb.ca.gov> on the Internet, or by writing to: TAX FORMS REQUEST UNIT, FRANCHISE TAX BOARD, PO BOX 307, RANCHO CORDOVA CA 95741-0307.

Even if you are not required by the law to file a return, you should file a return if California tax has been withheld. For more information, call (800) 852-5711 from within the United States, or (916) 845-6500 from outside the United States.

You may be assessed a penalty if you file your return late, if the amount withheld is not enough to satisfy your tax liability or if you fail to file a return and your California income exceeds the amounts prescribed by law for filing a return.

When filing your California tax return, attach Copy B of this form to the face of your return as you would a federal Form W-2. If you are an individual or a fiduciary, enter the amount from Part V, line 2 of this form on the "California income tax withheld" line of your return. If you are a corporation, enter the amount on the "Estimated tax payments" line of your return.

Keep Copy C for your records.

WITHHOLDING AGENT:

You are required to file Copy A of this form together with Form 592, Nonresident Withholding Annual Return, with the Franchise Tax Board. See the instructions for Forms 592, 592-A and 592-B for time and place for filing returns of tax withheld at source.

Direct correspondence to: NONRESIDENT WITHHOLDING SECTION, FRANCHISE TAX BOARD, PO BOX 651, SACRAMENTO CA 95812-0651, or telephone: (916) 845-4900.

File **Copy A** with Form 592, Nonresident Withholding Annual Return.

Copies B and C are for the recipient.

Copy D is for the withholding agent's records.

Instructions for Forms 592, 592-A and 592-B

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and to the California Revenue and Taxation Code (R&TC).

General Information

For California withholding purposes only, a reference in these instructions to:

- "Partnership" or "partner" refers to a "limited liability company (LLC)" or "member," respectively, if the LLC is treated like a partnership for tax purposes;
- "Nonresident" refers to individuals who are not residents of California, corporations not qualified through the California Secretary of State's (SOS) office to do business in California or having no permanent place of business in California, partnerships with no permanent place of business in California, grantor trusts with nonresident grantors, irrevocable trusts without at least one California resident trustee or estates where the decedent was not a California resident; and
- "Foreign" refers to non-U.S.

A Purpose

Form 592, Nonresident Withholding Annual

Return. Use this form to report the total withholding for the year under R&TC Sections 18662 and 18666.

Form 592 is also a transmittal form for Form(s) 592-B, Nonresident Withholding Tax Statement. See General Information J for special rules relating to withholding on foreign (non-U.S.) partners or members of a partnership or LLC.

Do not use Form 592 if:

- Withholding is for the sale of real estate. In that case, get Form 597, Nonresident Withholding Tax Statement for Real Estate Sales, to report and remit real estate withholding (However, partnerships, estates and trusts need to use the Form 592 series for withholding on distribution to nonresident partners or beneficiaries when the income was from the sale of California real estate.); or
- Form 594, Notice to Withhold Tax at Source, has been issued for a particular engagement. Complete Form 594 and return Copy A with payment of tax withheld to the Franchise Tax Board (FTB).

Form 592-A, Nonresident Withholding Remittance

Statement. Use this form to make payments to the FTB under R&TC Sections 18662 and 18666. Each payment made during the year must be accompanied by Form 592-A.

Form 592-B, Nonresident Withholding Tax State-

ment. Use this form to show the amount of income subject to withholding and tax withheld for nonresidents for the year.

File a separate Form 592-B for each nonresident.

Copy A of Form 592-B must be attached to Form 592 and must be filed annually with the FTB.

Nonresident recipients: Attach Copy B of

Form 592-B to your Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, to claim credit for tax withheld. Enter the amount of tax withheld on the income tax withheld line of that return.

Any residents who were withheld upon would also receive Copy B of Form 592-B and should attach it to their Form 540, California Resident Income Tax Return, and enter the amount of tax withheld on the income tax withheld line of that return. A corporation must attach Copy B of Form 592-B to its Form 100, California Corporation Franchise or Income Tax Return, or Form 100S, California S Corporation Franchise or Income Tax Return, and enter the amount of tax withheld on the estimate payment line of that return. An estate or trust must attach Copy B of Form 592-B to its Form 541, California Fiduciary Income Tax Return if the income is not distributed to the beneficiaries.

Copy C is retained by the recipients for their records. Copy D is retained by the withholding agents for their records.

B Who Must File

Any individual or entity making payments or allocations of income to individuals who are nonresidents of California or to corporations or partnerships that do not have a permanent place of business in California, must withhold tax from such payments and remit the amount withheld to the FTB.

C Withholding Rates

R&TC Section 18662 and the related regulations require withholding on payments made to nonresidents for income received from California sources. The withholding rate is 7% unless a reduced rate is authorized by the FTB. Get Form 588, Nonresident Withholding Waiver Request, to request a reduced rate or waiver. For information on foreign (non-U.S.) partner withholding see General Information J.

D Income Subject to Withholding

Types of income subject to withholding include, but are not limited to:

- Compensation for services performed in California by nonresidents (including payment of expenses not separately stated). For more information, get FTB Pub. 1023, Nonresident Withholding – Independent Contractor, Rent and Royalty Guidelines, or FTB Pub. 1024, Nonresident Withholding – Entertainment Guidelines;
- Payments to nonresidents for rents or royalties on property (real or personal) located in California. For more information, get FTB Pub. 1023;
- Distributions of California source income to nonresident beneficiaries from an estate or trust;
- Prizes and winnings received by nonresidents for contests in California;
- Partnership income, gain or (loss) allocable under IRC Section 704 to a foreign (non-U.S.) nonresident partner (see General Information J);
- Distributions of California source income to a domestic (nonforeign) nonresident partner. For more information get FTB Pub. 1017, Nonresident Withholding – Partnership Guidelines; and
- Other payments of California source income made to nonresidents.

Compensation for services includes payments for services rendered in California, commissions paid to salesmen or agents for orders received or sales made in California, fees for professional services rendered in California, and payments to entertainers, wrestlers, boxers, etc., for performances in California.

When compensation is paid for services performed both within and outside of California, the portion paid for services performed in this state and subject to withholding should be determined by an allocation.

E Exceptions to Withholding

Withholding is not required when:

- The payment is for goods;
- The payment is being made to a resident of California or to a corporation, partnership or an LLC that has a permanent place of business in California. Form 590, Withholding Exemption Certificate, can be used by vendors/payees to certify that they are residents of California or have a permanent place of business in California. The signed form containing this certification should be retained by the withholding agent and be provided to the FTB upon request. Withholding agents will be relieved of the withholding requirements if they rely in good faith on

a signed Form 590 stating that the vendor/payee is a resident of California or has a permanent place of business in California.

Note: If the resident, corporation or partnership that has a permanent place of business in California is acting as an agent for the actual vendor/payee, this exception does not apply;

- The total payments of California source income to the vendor/payee by the withholding agent are \$1,500 or less for the calendar year (for foreign (non-U.S.) partners, see General Information J);
- The payments are for income from intangible personal property, such as interest and dividends unless derived in a California trade or business or the property has acquired a business situs in California;
- The payments are for services performed outside of California or for rents, royalties and leases on real estate located outside of California;
- The vendor/payee is a tax-exempt organization or qualified pension plan under either California or federal law;
- The payments are wages paid to employees. **Note:** Wage withholding is administered by the California Employment Development Department (EDD). For more information contact your local EDD office;
- The vendor/payee receives a written authorization from the FTB waiving the withholding;
- The domestic nonresident partner provides the partnership with a signed Form 590-P, Nonresident Withholding Exemption Certificate for Previously Reported Income of Partners and Members; or
- The income of nonresident partners, including a bank or corporation, is derived from qualified investment securities of an investment partnership.

F Waivers and Reduced Rates

The FTB will generally grant a waiver if:

- The vendor/payee has a history of filing California returns including the return most recently due;
- The vendor/payee is currently making estimated tax payments;
- Distributions are made by publicly traded partnerships; or
- Distributions are made to brokerage firms and tiered partnerships.

The FTB will generally grant a reduced withholding rate when the 7% withholding rate results in significant over-withholding.

Note: There is no provision in the law to allow waivers or reduced withholding to foreign (non-U.S.) partners.

Get Form 588 to request a waiver or a reduced rate of withholding.

If the distribution from a partnership is determined to be a return of capital or does not represent taxable income for the current or prior years, no withholding is required. Although a waiver is not required in these situations, the partnership may be liable for the withholding if, at audit, the FTB determines that the distribution represented taxable income.

G Interest and Penalties

The law provides for interest on late payments of withholding. Interest is computed from the due date of the withholding to the date paid.

Failure to withhold may result in the withholding agent being personally liable for the amount of tax that should have been withheld and for interest and penalties.

H When and Where to File

Form 592: For withholding on domestic nonresident partners, independent contractors, recipients of rents and royalties and beneficiaries of estates and trusts, file Form 592 on or before January 31 following the close of the calendar year.

Note: Withholding on distributions of California source income to domestic nonresident partners is reported on Form 592, Side 1. For withholding on foreign (non-U.S.) partners (foreign partner) see General Information J.

If a partnership has both foreign and domestic nonresident partners, a separate Form 592 must be filed for each type of partner. Include the total amount of withholding not previously remitted and Copy A of Form(s) 592-B or attach a list to Form 592 containing the information reported on Form 592-B. The withholding agent must still provide Copy B and Copy C of Form 592-B to each vendor/payee.

Form 592-A: File Form 592-A with the payment of withholding by the 20th day of the month following the month that the total amount withheld from all vendors/payees exceeds \$2,500. For withholding on foreign partners see General Information J.

Form 592-B: Copy B and Copy C of Form 592-B must be sent to the vendor/payee by the same time that Form 592 is due to the FTB.

Except for foreign partners, withholding of tax by withholding agents shall be on a calendar year basis, regardless of the accounting period adopted by the vendor/payee or withholding agent. For foreign partners, withholding of tax depends on the tax year of the partnership. See General Information J for information regarding withholding on foreign partners.

Send forms and payment of tax withheld at source to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0001

I Magnetic Media Filing

Withholding information may be submitted to the FTB via magnetic media. Withholding agents filing on magnetic media need not file year-end paper withholding documents with the FTB for individual vendors/payees. However, withholding agents must continue to provide vendors/payees with Form 592-B, showing their California income and withholding amounts for the year. For more information on magnetic media, get FTB Pub. 1023F, Nonresident Withholding – Magnetic Media Guidelines, or call (916) 845-3778.

J Foreign (Non-U.S.) Partner Withholding

R&TC Section 18666 requires withholding on income from California sources which is allocated to foreign partners. This section generally conforms to federal IRC Section 1446. California law relating to withholding on foreign partners follows federal law, and is therefore different from rules for withholding on domestic partners. The differences are:

- Foreign partner withholding is **based on allocations** of California source income rather than distributions.
- There is **no minimum** threshold before withholding is required.
- The foreign partner withholding rate is the **maximum California tax rate** applicable to the partner (corporations 8.84%, banks 10.84%, foreign partners that are not corporations or banks 9.3%).
- **Payments are due quarterly** to the FTB with Form 592-A, Nonresident Withholding Tax Statement, on the 15th day of the 4th, 6th, 9th and 12th months of the partnership's tax year. (Use the worksheet provided on Form 592-A to

figure installment payments of withholding for foreign partners.)

- Form 592, Nonresident Withholding Annual Return, is due on or before the 15th day of the 4th month following the close of the partnership's tax year. (If all the partners are foreign, Form 592 must be filed on or before the 15th day of the 6th month after the close of the partnership's tax year.)
- Excess withholding on foreign partners can be carried over to the following year.
- There are no provisions in the law to waive or reduce withholding on foreign partners.

See federal Revenue Procedure 89-31 for more information on foreign partner withholding.

K Where to get Publications, Forms and Additional Information

FTB Pub. 1023 and nonresident withholding forms are available on the FTB website at <http://www.ftb.ca.gov> on the Internet.

Once you access the FTB website, select Tax Forms from the menu, then select the tax year of the form you need. For nonresident withholding and other miscellaneous publications, select Miscellaneous California Forms, Instructions and Publications.

Nonresident withholding forms may also be obtained via Forms-by-Fax by calling (800) 998-3676. To order publications or forms or to get additional nonresident withholding information, please contact the Nonresident Withholding Section at the address or the automated telephone service number below:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
Telephone: (916) 845-4900
FAX Number: (916) 845-4831

For information, forms and publications not related to nonresident withholding, you may access the FTB website on the Internet at the address above or call the FTB General Toll-Free phone service at:

From within the United States (800) 852-5711
From outside the United States (916) 845-6500
For hearing impaired with TDD (800) 822-6268

Specific Instructions

For California Withholding purposes, a reference in these instructions to "foreign" partners, refers to "non-U.S." partners.

Form 592, Nonresident Withholding Annual Return

Complete and sign Form 592, Side 1, Section A if you are reporting withholding on independent contractors, recipients of rents and royalties, beneficiaries of domestic nonresident partnerships, or other entities. Complete and sign Form 592, Side 2, Section B if you are reporting withholding on foreign partners. Check the appropriate box at the top of the form to show how you are providing Form 592-B information.

If you withheld on both foreign partners and other nonresident payees, file a separate Form 592 for the foreign partners. See General Information J for the differences between foreign partner withholding and withholding on other nonresident payees.

Complete Form 592, Section A, Part II or Section B, Part II at the end of the year to determine the total amount of withholding for the year and any remaining balance due. Enter the amounts paid to the FTB during the tax year and the dates of the payments to help reconcile the year-end totals. To determine if a final payment for the year is required, subtract the

total payments made during the year from total withholding tax due and enter the balance. If the balance is zero, no additional payments are needed. If a balance is due, submit the additional withholding with Form 592.

To meet required payment dates and annual return filing dates for withholding, you may have to make reasonable estimates of income on which to base withholding. The FTB will not assess underpayment or late payment penalties if estimates are reasonable and based on the information available to the withholding agent at the time.

If a partnership, estate or trust is withheld upon by another entity, the credit must be allocated to all partners, members or beneficiaries, whether residents or nonresidents of California, according to their interests in the partnership, estate or trust.

If the other entity withheld because the partnership, estate or trust was a foreign partner, use Section B, Part III (on Side 2). Otherwise, use Section A, Part IV (on Side 1). Attach Form 592-B from the withholding entity to Form 592 to document the withholding credit. If any of the withholding credit is retained to offset tax at the partnership, estate or trust level, show only the net flow through amount in Section A, Part IV or Section B, Part III.

Form 592-A, Nonresident Withholding Remittance Statement

General withholding. Complete and mail Form 592-A to the FTB with payment each time tax withheld from all vendors/payees exceeds \$2,500. Enter the amount of tax withheld on the appropriate lines. Payment of tax withheld at the end of the year that is less than or equal to \$2,500 is submitted with Form 592.

Foreign nonresident partners. If a partnership has foreign partners, the partnership must make four installment payments of withholding during the taxable year. In general, the amount of a partnership's installment payment is equal to the sum of the installment payments for each of the partnership's foreign partners. For a foreign partner, an installment amount of the R&TC Section 18666 tax is correct if figured by applying the principles of IRC Section 6655(e)(2). To figure installment payments under this method, use the worksheet on Form 592-A. The worksheet provides for the annualization of the partnership income and is used throughout the year to compute each installment payment.

As an alternative to completing the worksheet, each installment payment during the tax year may be made in an amount equal to 25% of the withholding that would be payable on the partnership's California source taxable income allocable to foreign partners for the prior year if the following three conditions are met:

1. The prior tax year consisted of 12 months;
2. The partnership filed Form 565, Partnership Return of Income, (an LLC must file Form 568, Limited Liability Company Return of Income), for the prior year; and
3. The amount of California source taxable income for the prior year was not less than 50% of the California source taxable income for the current year.

Form 592-B — Nonresident Withholding Tax Statement

Complete Form 592-B at the end of the year and attach Copy A to Form 592. Send Copy B and Copy C to the recipient. Withholding agents should retain Copy D for their records.

The total amount of all withholding for all Form 592-B's should equal the total amount of withholding on Form 592.



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
TELEPHONE (916) 845-4900

**WITHHOLDING TAX AT SOURCE
REQUIREMENTS
INDEPENDENT CONTRACTORS**

Why did you receive this letter? Does your company make payments to nonresidents of California? If so, California law (Revenue and Taxation Code section 18662) requires you to withhold and remit income tax payments in certain instances. If you don't withhold and remit, you may have to pay the withholding plus penalties. We are sending this letter to explain the withholding requirements, and to give you the information you need to explain these requirements to nonresident payees.

What types of income are subject to withholding? Withholding is generally required on payments made to people who don't reside in California but are paid:

- For services performed as an independent contractor in California,
- Rents or royalties on assets such as commercial real estate, wells, mines and equipment located in California, and
- Distributions from California estates and trusts.

What is the withholding rate? The rate is seven percent of the gross amount of the payment of California source income.

What are the exceptions? No withholding for income or franchise tax purposes is required if any one of the following applies:

1. The payment is for goods.
2. The payment is made to a resident of California, to a corporation that has a permanent place of business or is qualified to do business in California, or to a partnership that has a permanent place of business in California. **IMPORTANT NOTE: If the California resident, qualified corporation or partnership is acting as an agent for the nonresident payee, this exception does not apply.**
3. The total payments of California source income to the independent contractor are less than \$1501 for the calendar year.
4. The payment is to an organization that is exempt from tax under California or federal law.
5. The payments are compensation from a motor carrier providing transportation in two or more states, subject to Section 11504(b) of the United States Code.
6. The payments are wages paid to employees (wage withholding is administered by the California Employment Development Department).
7. The payment is to a bank or banking association.
8. The payment is to a nonresident corporate director for director services, including attendance at board of directors' meetings.
9. The payee or payer has a written authorization from us (the California Franchise Tax Board) waiving withholding.

MORE INFORMATION: FTB Publication 1023, Nonresident Withholding - Independent Contractor, Rent & Royalty Guidelines, answers many common questions about withholding requirements, forms, waivers, reporting, and making payments. To obtain a copy, call (916) 845-4900 or write to Nonresident Withholding Section, PO Box 651, Sacramento CA 95812-0651. You can also find forms, publications and other information at the FTB home page on the Internet at <http://www.ftb.ca.gov>.



FRANCHISE TAX BOARD

P.O. BOX 651
SACRAMENTO, CA 95812-0651
Telephone: (916) 845-4900

NOTICE TO WITHHOLD

Estate of

You are required to withhold tax from taxable California source income distributed or distributable to nonresident beneficiaries.

Withholding is required at the rate of seven percent (7%) on tangible California source income. See the instructions for Forms 592, 592-A and 592-B enclosed. Failure to withhold when required may make you personally liable for the amount due.

INCOME SUBJECT TO WITHHOLDING: California source income received from tangible property located in this state is taxable to a nonresident beneficiary and subject to withholding when distributable or distributed to the beneficiary. California source income includes, but may not be limited to, income generated by a business managed or controlled by the estate, rental income received from real or personal property, and gains derived from the sale of real or personal property.

INCOME NOT SUBJECT TO WITHHOLDING: Income received from intangible personal property distributed to a nonresident beneficiary is generally not taxable, and therefore, not subject to withholding. Such income includes dividends from stock in corporations, interest from bonds, notes or bank deposits, and the gain derived from the sale of stocks or bonds. The location of the fund generating interest income, or the location of the corporation from which dividends were paid, is of no consequence. See California Revenue and Taxation Code Sections 17952 and 17953.

If there is no distributable income subject to withholding, you are not required to file the enclosed return and may disregard this notice.

Withhold-at-Source Unit

Enc. Forms 592, 592-A, 592-B and instructions

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